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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,398	03/07/2001	Peter O. Schmidt	HELLO-08600	4052

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EXAMINER	
BRITTAIN, JAMES R	
ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 02/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/801,398	SCHMIDT ET AL.	
	Examiner	Art Unit	
	James R. Brittain	3677	

-- Th MAILING DATE of this communication app ars on th cover sh t with the corr spondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 November 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-11,16 and 17* is/are allowed.

6)☒ Claim(s) *12-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *8* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *Not. Irr. Mail* .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabenecker (UK 2339834) in view of Zuckerman et al. (US 5890,634).

Rabenecker (figure 1) teaches an adapter in the form of a nub bar made of silicone rubber inserted into cutouts 13, 14 in the segment 8 of the clip so as to increase the friction on smooth materials and can be removed in order to fasten the object, a mobile measuring instrument 7, to thicker materials or belts (page 4, lines 10-14), wherein the clip is coupled to an object and having a segment 8 which secures the object to an article worn by a person, the object having a surface formed as part of the housing 6 adapted to be worn adjacent to the person, the adapter coupled to the segment by insertion into cutouts 13, 14 in the clip and positioned between the segment and the surface of the object, wherein the adapter inherently has an adapter length. The clip segment 8 has a protrusion 15 on the distal end, the protrusion facing toward the surface and having a predetermined length such that the protrusion catches the article between the clip and the object.

The difference is that the adapter bar is nubbed and not flat. However, Zuckerman et al. (figures 1-3, 6, 8) teaches flat adapter structure 40 for providing a flat

surface to a clip 26, 28, wherein the clip is used to hang clothing, wherein the adapter has an adapter length. Zuckerman et al. teach that it is desirable to have a flat adapter so that the fabric is neither damaged or marked rather than use damaging projections or cleats in the clamp jaws (col. 1, lines 19-63). This is accomplished by a resilient friction material 44 (col. 5, lines 28-37). The adapter is also securable and removable by an easy snap-in/snap-out motion so that differing fabrics can be gripped (col. 2, lines 14-32) that provides important versatility. It can be used to cover a roughened or nippled clamping surface so as to provide more versatility (col. 6, lines 51-64).

It would have been obvious to modify the adapter of Rabenecker so that the adapter bar is flat in view of Zuckerman et al. teaching it is desirable to have a flat adapter 40 with a surface 44 made of resilient friction material for providing a flat surface to a clip rather than a nubbed surface so that the fabric is neither damaged or marked rather than use damaging projections or cleats in the clamp jaws (col. 1, lines 19-63). In regard to claim 14, Rabenecker suggests inserting the adapter bar into cutouts 13, 14 in the segment 8 of the clip and that the adapter bar is removable from the segment 8. It would have been obvious to use the configuration suggested by Zuckerman et al. as providing a protrusion 54 for attaching the adapter to the segment, wherein the adapter attaches to the segment by fitting the protrusion 54 within a slot 52 located in the segment since such structure provides for easy securement and release.

Allowable Subject Matter

Claims 1-11, 16, and 17 are allowed.

Response to Arguments

Applicant's arguments filed November 13, 2002 have been fully considered but they are not persuasive. Applicant argues that the Rabenecker does not teach an adapter that provides a flat surface to a clip, but teaches that the cutouts 13, 14 are small, round and bump-like as shown in figure 1 (Remarks, Page 11, ¶3). However, Rabenecker (GB 2339834) describes the nub bar on page 4, lines 10-14:

> for example for a solid leather belt. A nub bar made of silicone rubber inserted into cutouts 13, 14 in the plate 8 increases the friction on smooth materials and can be removed in order to fasten the measuring instrument 7 to thicker materials or belts.

Zuckerman et al. (US 5890634) is simply used to teach that it is old and well known to utilize an adapter that is flat and that it is desirable to utilize a flat surfaced adapter when holding fabrics.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Rabenecker utilizes a clip with a removable adapter on clothing. The adapter is nubbed. Zuckerman et al. establishes a level of skill in ordinary experience wherein it is

recognized that fabrics can be damaged by projections or cleats in jaw surfaces and that it is desirable that adapters be flat so that damage does not take place as indicated in column 1, lines 19-63:

> In order to avoid this situation, manufacturers of clamp-style garment hangers have designed clamp assemblies with rough or sharp edges to positively grip the garment. However, clamp assemblies with rough garment-engaging surfaces have the potential of damaging delicate materials, such as silk or linen, through extended use. One particular problem is associated with clamp assemblies that employ outwardly protruding nipple-like projections or cleats. The nipple-like projections leave indentations in the cuffs of slacks and the waist bands of skirts. Removal of these indentations normally requires ironing or dry cleaning, or the consumer may have to wear the garment as is due to inadequate time to remove the indentations.
>
> The above-mentioned shortcomings are not only annoying to the consumers but to the manufacturers of garments as well. First, a manufacturer cannot tolerate a clamp-type garment hanger that, with unacceptable frequency, allows the garments to slip through the clamp assemblies and fall to the floor. Manufacturers of garments often ship their expensive garments already hung on clamp-style garment hangers. The garments will wrinkle or become damaged if they fall off the hangers during transit. By the same token, retailers are very particular about product presentation and will not tolerate garment hangers that permit garments to fall onto the floor. Further, neither manufacturers nor retailers can tolerate clamp-type garment hangers that employ rough clamping surfaces or nipped clamping surfaces because such designs have the potential to damage fragile or expensive garments or at least to mar the appearance, thereby detracting from the sales appeal to the purchaser.
>
> Hence, there is a need for a new clamp-type garment hanger that meets the aforenoted criteria. Specifically, the clamp assemblies must positively grip the garment without either marking or adhering to the garment fabric. Further, because the hanger must be capable of use as a shipping hanger by clothing manufacturers, the clamp assembly must be able to maintain its gripping ability under the rough handling resulting from the shocks and bumps to which such hangers are exposed during shipment. It is highly desirable to produce a clamp assembly with a clamping surface that is both relatively smooth to the touch and has the ability to positively grip the garments for an extended period of time. A clamping surface that is relatively smooth to the touch is pleasing to the consumer and assures the consumer that the clamping surface will not damage the garment.

Zuckerman et al. accomplish this by using a resilient material as indicated in column 5, lines 28-37 :

The second side 44 of each gripping pad 40 is fabricated from resilient friction material. The coefficient of friction of the second side 44 is selected so that it is sufficiently high to preclude movement of a garment G, under the weight of the garment, when a normal clamping force is applied to the two clamping members to move them into a clamping position.

Preferred resilient friction materials for the gripping pad second side 44 are tacky materials such as flexible polyvinyl chloride and polypropylene.

Zuckerman et al. indicated that it is desirable that the adapter be securable and removable by an easy snap-in/snap-out motion so that different fabrics can be gripped and that this provides important versatility as indicated in column 2, lines 14-32:

hanger is lost. Thus the versatility of a hanger is also an important selling point. For example, if a retailer purchaser wishes to hang a delicate satin from a hanger, he may elect to use only a gripping pad which is of a lower coefficient of friction (in order to treat the satin more delicately), a pad that is larger (so that the gripping force is better distributed), or a pad that is thicker (to provide extra protection for the satin). Indeed, during the life of a given garment hanger, it may be desirable at various times for the hanger to suspend various different fabrics, each calling for particular gripping pads adapted for that fabric. Clearly, co-molded or glued gripping pads are not so replaceable by the retail customer.

Further, it is desirable that the gripping pad be securable to the hanger by an easy snap-in motion which initially occurs downstream of the hanger production line so that it does not slow down the hanger production throughput.

Finally, it is desirable for some applications that the gripping pad be securable and removable from the hanger by an easy snap-in/snap-out motion. On the other hand, in given

Finally, Zuckerman et al. indicate that the adapter can be used to cover a roughened or nippled clamping surface so as to provide more versatility as indicated in column 6, lines 51-64:

It will be appreciated that, for particular applications where it is uncertain whether or not the clamping assemblies will be used with gripping pads 40 or not, the inner clamping surface of each clamping member 26, 28 may be designed to secure in a conventional manner a garment to be hung from the hanger. In other words, the inner clamping surface of the clamping member may have a rough or nipped clamping surface. Thus, the purchaser can use the hanger without the gripping pads or, simply by manual insertion of the gripping pads onto the clamping members, with the gripping pads. In the latter instance, the gripping pads preferably totally block the rough or nipped region of the clamping member so that only the gripping pad contacts the garment to be hung from the hanger.

These portions of Zuckerman et al., which were referred to by column and line number in the statement of the rejection, are reproduced here to show how well known and desirable it is to have a flat surface on an adapter that is securing clothing through a clamping action. Obviously, Zuckerman et al. utilizes the clamps to suspend clothing, but not only for display purposes, the clamps can also be secured to the garments during transport and it is desirable to not have damage under these conditions, too, and that the adapters can be changed, removed or inserted depending on the fabric held or the whim of the purchaser. The desirability of preventing damage to clothing doesn't begin and end with its being suspended, but extends to when its worn, too. Zuckerman et al. specifically show that it is desirable to utilize an adapter with a flat surface to prevent damage from clamping jaw faces to clothing. This clear overlap of clamping of clothing between jaws establishes Zuckerman et al. as being in an art reasonably pertinent to that of applicant's. Further, this function of recognizing that when clamps secure clothing as taught by Zuckerman et al., the characteristics of clothing are such that they can be damaged and that it is desirable to utilize an adapter with a flat surface and other characteristics whereby it provides a securing clamping effect establishes a motivation to modify the teachings of Rabenecker as indicated.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

James R. Brittain
Primary Examiner
Art Unit 3677

JRB
February 3, 2003

Application/Control Number 09/801,328 Attachment to Paper No. 10
Art Unit 3677

Notice Regarding Treatment of Irradiated Correspondence

The following papers have not been made part of the permanent records of the United States Patent and Trademark Office (Office) for this application (37 CFR 1.52(a)) because of damage from the United States Postal Service irradiation process:

Mailroom Stamp Date	Certificate of Mailing Date
8/28/02	8/22/02

The above-identified papers, however, were not so damaged as to preclude the USPTO from making a legible copy of such papers. Therefore, the Office has made a copy of these papers, substituted them for the originals in the file, and stamped that copy:

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ORIGINALLY FILED

If applicant wants to review the accuracy of the Office's copy of such papers, applicant may either inspect the application (37 CFR 1.14(d)) or may request a copy of the Office's records of such papers (*i.e.*, a copy of the copy made by the Office) from the Office of Public Records for the fee specified in 37 CFR 1.19(b)(4). Please do **not** call the Technology Center's Customer Service Center to inquiry about the completeness or accuracy of Office's copy of the above-identified papers, as the Technology Center's Customer Service Center will **not** be able to provide this service.

If applicant does not consider the Office's copy of such papers to be accurate, applicant must provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the originally submitted documents. If applicant provides such a copy of the above-identified papers and statement within **THREE MONTHS** of the mail date of this Office action, the Office will add the original mailroom date and use the copy provided by applicant as the permanent Office record of the above-identified papers in place of the copy made by the Office. Otherwise, the Office's copy will be used as the permanent Office record of the above-identified papers (*i.e.*, the Office will use the copy of the above-identified papers made by the Office for examination and all other purposes). This three-month period is not extendable.